THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
and
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No. 29235 of 1997

O R D E R: (Per the Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed against the order dated 2.4.1997 passed by the A.P. Administrative Tribunal in O.A. No. 187 of 1995 and batch.

Heard the learned counsel for the parties and perused the material available on record.

The case of the petitioners is that the unofficial respondents herein filed O.As., before the Tribunal mainly questioning whether the Deputy Executive Engineers can be promoted to the post of Executive Engineers without passing Accounts Test for Public Works Department Officers and Subordinates, but the Tribunal did not answer the same and on the other hand observed that adequate opportunity to the Engineers was not given before canceling the proceedings of G.O.Ms.No. 35 dated 30.8.1988 in G.O.Ms.No. 64 dated 5.8.1996 and that the same is factually incorrect. It is further stated that G.O.Ms.No. 64 dated 5.8.1996 never cancelled the proceedings in G.O.Ms.No. 35 dated 30.8.1988 in which promotions of some of the unqualified Deputy Executive Engineers as Executive Engineers was ordered. As on today, no Executive Engineer promoted vide G.O.Ms.No. 35 dated 30.8.1988 was reverted. Hence the question of giving opportunity to them does not arise at this stage. G.O.Ms.No. 64 dated 5.8.1996 superceded only G.O.Ms.No. 31 dated 27.8.1988 while reviewing the

panel of Deputy Executive Engineers eligible for promotion as Executive Engineers. The revised panel prepared vide G.O.Ms.No. 64 dated 5.8.1996 itself is a notice to the respondents since no person who was promoted vide G.O.Ms.No. 35 dated 30.8.1988 was reverted yet. Therefore, the petitioners submit, that the orders of the Tribunal in para 40(i) and 40(iv) are totally irrelevant to the questions raised in O.A. No. 187 of 1995 and other batch of applications. It is also stated that the order of the Tribunal that passing of Accounts Test is not mandatory before 14.10.1977 for promotion to the post of Deputy Executive Engineer or Executive Engineer is highly irrational and inconsistent interpretation of the Rules.

On the other hand, the respondents 5, 6 and 8 filed counter affidavit, inter alia, stating that their promotion was not challenged by any person and the respondents 1 to 3 herein filed O.A. 187 of 1995 seeking to prepare the year wise panels for promotion to the post of Executive Engineer and include their names in the relevant and appropriate list and also for a direction to promote them as Executive Engineers with effect from a due date on the basis of the inclusion of their names in the appropriate approved list. The said O.A. was dismissed by the Tribunal vide impugned order dated 2.4.1997 and therefore this writ petition is not maintainable. The Government is a respondent before the Tribunal and the Government being a respondent in the O.A., cannot file this writ petition challenging the judgment of the Tribunal in O.A. 187 of 1995 when the said O.A. was dismissed. It is further stated that the contention of the respondents 1 to 3 herein in the O.A. was that they (respondents 5, 6 and 8) were promoted temporarily to the cadre of Executive Engineer on 30th August, 1988 and also that they have not passed the prescribed test for which the respondents 1 to 3 relied upon Rule

24(10), Ru.e 22(14) read with Rule 24(7) of A.P. Housing Board Rules. According to respondents 1 to 3, Rule 24(10) prescribes qualification of Accounts Test for Public Works Department Officers and Subordinates for the District Housing Employees who are appointed by direct recruitment within four years and for others within a period of their probation. According to respondents 1 to 3, such of the Deputy Executive Engineers who have not passed the Accounts Test should be reverted. According to Rule 24(4) of A.P. Housing Board Rules, which deals with the qualifications for appointment to various posts, one must be a graduate in Civil Engineering or shall have an equivalent qualification and must have rendered service as District Housing Engineer (Deputy Executive Engineer) for a period of not less than three years and that no other qualification except the above was prescribed for promotion to the post of Executive Engineer. Therefore, it is clear that it is not a condition precedent to pass the Account Test for promotion to the post of Executive Engineer. It is further stated that the proviso to Rule 24(1) stipulates that non-passing of the test within the prescribed period shall not be a bar for their promotion to the higher categories and that such of those Engineers as have attained the age of 45 years on the date of issue of these rules shall be exempted from passing the said Account Test. In view of the same, it is clear that for promotion to the post of Executive Engineer it is not necessary that one must pass Accounts Test. It is also submitted that the Government in now way is affected by the dismissal of O.A. 187 of 1995 in which the Government was a respondent. It is also stated that the Tribunal never gave any interim direction to review the panels already prepared. It is thus stated that the writ petition filed by the petitioners is liable to be dismissed.

A perusal of the order passed by the Tribunal goes

to show that the Tribunal has considered the matter in detail and has framed appropriate issues and has given sound reasons in support of its observations. We find no force in the submission of the petitioners that the Tribunal has not considered the matter in proper perspective. The Tribunal has also referred to the relevant Acts and Rules in coming to the conclusions. Admittedly, prior to the amendment issued to the A.P.H.B. Rules issued in G.O.Ms.No. 116 dated 14.10.1977, passing the Accounts Test was not prescribed for the District Housing Engineers (DHEs) and under the 1959 Rules, passing of Accounts Test is prescribed only for the ministerial staff. The accounts Test for Gazetted Housing Engineers is prescribed for the first time in G.O.Ms.No. 116 of 1977 under Rule 24(10). Though the Tribunal observed that under the 1977 Rules passing of Accounts Test for Subordinate Officers Part-I is a necessary qualification for promotion to higher category for Senior Assistants, Superintendents and similarly passing of Divisional Accounts Test for Divisional Accountants under Rule 22(5), having regard to Rules 24(2) and 24(3), the Tribunal made it clear that passing of Accounts Test is not a qualification prescribed for promotion to the category of District Housing Engineer (DEE) and Regional Housing Engineer (EE). Further, having regard to Rule 24-A (3), passing of Accounts Test is not prescribed as a qualification for appointment to the post of Junior Housing Engineer also, as rightly pointed out by the Tribunal. Further, we find no error in the observation of the Tribunal that Section 16 of the Act and Rule 22 relate to salaries, leave, pensions, TA, retirements and rules relating to conduct and punishments of Government servants. The Tribunal has given cogent reasons with respect to each and every contention raised by the petitioners and therefore we do not find any force in the contention of the learned

counsel for the petitioners that the Tribunal has not considered the matter on proper lines. As the reasoning adopted by the Tribunal in arriving at the conclusions is proper and convincing, we find no error or infirmity in the order passed by the Tribunal warranting interference by this Court.

We do not find any merit in this writ petition. It is accordingly dismissed.

T. MEENA KUMARI, J.

G. CHANDRAIAH, J.

Date: 06-09-2007.

MVB.